

IOWA FINANCE AUTHORITY[265]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 17A.3(1)“b,” Iowa Code Supplement section 16.5(1)“r,” and 2008 Iowa Acts, Senate File 2354, the Iowa Finance Authority hereby rescinds Chapter 27, “Military Service Member Home Ownership Assistance Program,” Iowa Administrative Code, and adopts a new Chapter 27 with the same title.

The purpose of this new chapter is to implement 2008 Iowa Acts, Senate File 2354.

The Authority does not intend to grant waivers under the provisions of any of these rules, other than as may be allowed under the Authority’s general rules concerning waivers.

The Authority finds that notice and public participation are impracticable and contrary to the public interest in that 2008 Iowa Acts, Senate File 2354, took effect on July 1, 2008, and the normal notice and public participation process would delay implementation of Senate File 2354. The Authority is also simultaneously publishing a Notice of Intended Action as **ARC 6915B** herein.

The Authority finds that adoption of this chapter confers a benefit on the persons affected, eligible members of the armed forces, in that the rules ease and speed the administration of an important and popular state grant program which benefits those members of the armed forces. The Authority finds that these rules should be implemented as soon as feasible in order to facilitate the awarding of grants under the program and to avoid delays in real estate closings. Therefore, these rules are filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of these rules is waived.

The Authority adopted these rules on June 4, 2008.

These rules became effective July 1, 2008.

These rules are intended to implement Iowa Code Supplement section 16.5(1)“r” and 2008 Iowa Acts, Senate File 2354.

The following amendment is adopted.

Rescind 265—Chapter 27 and adopt the following **new** chapter in lieu thereof:

CHAPTER 27

MILITARY SERVICE MEMBER HOME OWNERSHIP ASSISTANCE PROGRAM

265—27.1(16) Purpose. The purpose of the military service member home ownership assistance program is to help eligible members of the armed forces of the United States to purchase qualified homes in Iowa.

265—27.2(16) Definitions. As used in this chapter, unless the context otherwise requires:

“*Closing agent*” means the attorney, real estate firm, or closing company that is closing the cash sale qualifying purchase transaction and that prepares the cash sale settlement statement.

“*Eligible service member*” means a person purchasing his or her primary residence in the state of Iowa who, at the time of applying for a grant under the program, (1) is or was a member of the national guard, reserve, or regular component of the armed forces of the United States under Title 10 or Title 32 and has served at least 90 days of active duty service, other than training, beginning on or after September 11, 2001, and, if no longer in active service, was discharged in character other than dishonorable; (2) was honorably discharged due to injuries incurred while on active federal service beginning on or after September 11, 2001; or (3) is a surviving spouse of a service member who met the eligibility criteria of (1) or (2) above.

“*Home ownership assistance*” means the one-time grant of up to \$5,000 per eligible service member that may be used toward down payment or closing costs, or both, in the purchase of a qualified home. This grant does not require repayment except pursuant to rule 265—27.4(16).

“*Participating lender*” means a lender approved for participation in the authority’s first-time home buyer program that makes available the authority’s first-time home buyer program to customers in the same manner as other mortgage loan programs. This requirement applies to branch and

affiliate organizations that facilitate mortgage financing with the military grant. The authority may require participating lenders to provide evidence of proof of compliance, such as origination of the authority's first-time home buyer mortgages or mortgage rate sheets evidencing availability of the authority's mortgage program. The authority maintains a list of participating lenders on its Web site: www.iowafinanceauthority.gov.

"Program" or *"military grant"* means the military service member home ownership assistance program authorized by 2008 Iowa Acts, Senate File 2354.

"Qualified home" means a home that is located in the state of Iowa, that is purchased by an eligible service member as the eligible service member's primary residence on or after July 1, 2008, and that falls into one of the following categories:

1. Single-family residence, including "stick-built" homes, modular homes, or manufactured homes, provided the home is attached to a permanent foundation and is taxed as real estate;
2. Condominium;
3. Townhome;
4. A property containing two to four residential units, where one unit is to be occupied by the eligible service member as his or her primary residence.

The following categories of property shall not constitute a qualified home:

- Multifamily properties of five units or more;
- Commercial or nonresidential property;
- Farmland or other investment property;
- Recreational vehicles, mobile homes, or trailers not attached to a permanent foundation.

"Qualified mortgage" means a permanent mortgage loan made pursuant to the authority's first-time home buyer mortgage program for eligible first-time home buyers and targeted area home buyers or, in cases where the home buyer is not eligible for the authority's first-time home buyer mortgage program, any permanent mortgage loan with amortized payments and a maturity date of not less than five years made by a participating lender. First-time home buyer mortgage program information may be obtained on the authority's Web site at www.iowafinanceauthority.gov.

"Status documentation" means written documentation of the applicant's status with the armed forces of the United States, typically a copy of a valid DD Form 214, showing character of service other than dishonorable, most recent four months of leave and earnings statements, or other documentation satisfactory to the Iowa department of veterans affairs.

"Title guaranty certificate" means the certificate issued by the title guaranty division of the authority pursuant to Iowa Code section 16.92 to ensure marketable title to the lender or the homeowner, or both. Information about title guaranty may be obtained at: www.iowafinanceauthority.gov.

265—27.3(16) Application procedure and determination of eligibility.

27.3(1) Prior approval. Whether the purchase of a qualified home is by mortgage financing or cash, a determination of the service member's eligibility by the Iowa department of veterans affairs and prior approval of the grant by the authority are required. A minimum of one week should be allowed for approval response from the authority.

27.3(2) Financed home purchases. In the case of the purchase of a qualified home that is to be financed, the eligible service member must apply for a grant under the program through a participating lender. The mortgage financing provided shall be the authority's first-time home buyer mortgage if the service member qualifies for it or another permanent mortgage if the service member does not qualify for the first-time home buyer mortgage. To apply for the military grant, the eligible service member shall provide a participating lender with status documentation, submit a bona fide purchase agreement with any addenda or attachments for a primary residence, complete a loan application on Form 1003, submit a copy of a government-issued photo identification card, and assist the participating lender in completing a grant application on a form approved by the authority which states the amount of the grant being requested. In the event the applicant is not eligible for the authority's first-time home buyer mortgage program, information evidencing ineligibility and acceptable documentation to the authority must accompany the application. The participating lender shall then transmit copies of the loan application, the status

documentation, the purchase agreement, any necessary supporting documentation, the photo ID, and the grant application to the authority.

27.3(3) *Cash home purchases.* In the case of a cash purchase of a qualified home, the eligible service member shall provide directly to the authority status documentation, a completed grant application form obtained from the authority and a bona fide purchase agreement with any addenda or attachments for a primary residence.

27.3(4) *Referral of status documentation to Iowa department of veterans affairs.* Upon receipt of the completed grant application, the authority shall submit the status documentation to the Iowa department of veterans affairs for verification that the applicant's duty status is consistent with the definition of "eligible service member." The Iowa department of veterans affairs shall be the final authority as to whether an applicant's duty status is consistent with the definition of "eligible service member."

27.3(5) *Notice of grant approval.* Upon confirmation of the applicant's service record by the Iowa department of veterans affairs, provided that the information submitted on the grant application form complies with the requirements of this chapter, the authority shall notify the participating lender, or eligible service member in the case of a cash purchase, that the grant application has been approved.

27.3(6) *Gaps in funding.* In cases where the grant funds are unavailable during the home purchase process, approved transactions shall be placed on a waiting list. When funds are again available and where the home purchase closed without the benefit of military grant funds being applied toward closing costs or down payment, the proceeds of the grant shall be paid (1) directly to the participating lender/servicing lender to be applied toward the qualified mortgage loan's principal balance or to replenish the eligible service member's contribution toward home purchase, or (2) if the qualified home was purchased pursuant to a cash purchase transaction, directly to the eligible service member. Additional documentation required shall include a statement executed by the applicant authorizing the grant to be applied to the principal balance.

265—27.4(16) Grant award. Grants awarded hereunder shall be up to \$5,000 toward the purchase of a qualified home and may be used for down payment or for closing costs, or for both. Grant funds must be applied to the purchase of a qualified home and, in the case of mortgage financing, the mortgage must be a qualified mortgage. Any grant proceeds which are not used for down payment or closing costs toward the purchase of a qualified home which is financed by a mortgage must be returned to the authority.

27.4(1) *Grant reimbursement.* The participating lender or cash payment home buyer shall advance funds at closing in an amount equal to the amount of the grant on behalf of the eligible service member to be applied toward closing costs or the down payment. The participating lender or cash payment home buyer, as applicable, shall, within 30 days of closing, submit to the authority a copy of the executed HUD-1 Settlement Statement (or, if the transaction is a cash purchase, the eligible service member may use the settlement statement certified by a closing agent and the eligible service member), a copy of the deed conveying title to the qualified home, a copy of a title guaranty certificate issued for the qualified home, and the military grant agreement and certification (form obtained from the authority) for reimbursement for the amount of the grant. In the event the mortgage financing is not made pursuant to the authority's first-time home buyer program, reimbursement documentation shall include a certified copy of the promissory note and mortgage.

27.4(2) *Grant restrictions and limitations.* All grants under the program are subject to funding availability. Grants will be awarded in the order in which completed grant applications are received. Grants awarded pursuant to the program are personal to their recipients and may not be assigned. Only one grant shall be awarded per home purchase. An eligible service member shall receive only one grant award under the program. While program funds are available, the grant award shall be valid for 60 days in the case of purchases of existing or completed property and 120 days in the case of purchases of property being constructed or renovated. A reasonable extension may be granted with evidence of a purchase loan in progress which has been delayed due to circumstances beyond the service member's control.

265—27.5(16) Income, purchase price and qualified mortgage. There are no income or purchase price limits under the program except that eligible service members purchasing with mortgage financing who are eligible for the authority’s first-time home buyer program, whether a first-time home buyer or non-first-time home buyer purchasing in a targeted area, must use the authority’s first-time home buyer mortgage program. Service members who are not eligible for the authority’s first-time home buyer mortgage program and are not purchasing on cash basis, must use other permanent mortgages made by the participating lender. Service members may also, if eligible, use other grant funds from the authority, grant fund assistance available through other public agencies or nonprofit organizations, the service member’s employer, or any forgivable, “soft second” lien subsidy. Information about the authority’s first-time home buyer program or how to contact a participating lender may be obtained on the authority’s Web site at www.iowafinanceauthority.gov.

These rules are intended to implement Iowa Code Supplement section 16.5(1) “r” and 2008 Iowa Acts, Senate File 2354.

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 7/2/08.